

105TH CONGRESS
1ST SESSION

S. 809

To amend the Internal Revenue Code of 1986 to exempt from income taxation income derived from natural resources activities by a member of an Indian tribe directly or through a qualified Indian entity.

IN THE SENATE OF THE UNITED STATES

MAY 23, 1997

Mr. MCCAIN (for himself and Mr. CAMPBELL) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to exempt from income taxation income derived from natural resources activities by a member of an Indian tribe directly or through a qualified Indian entity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Treatment of Indian
5 Tribal Natural Resource Income Act of 1997”.

1 **SEC. 2. FEDERAL TAX TREATMENT OF INCOME DERIVED BY**
 2 **INDIANS FROM NATURAL RESOURCES AC-**
 3 **TIVITIES.**

4 (a) IN GENERAL.—Subchapter C of chapter 80 of the
 5 Internal Revenue Code of 1986 (relating to provisions af-
 6 fecting more than one subtitle) is amended by adding at
 7 the end the following new section:

8 **“SEC. 7874. FEDERAL TAX TREATMENT OF INCOME DE-**
 9 **RIVED BY INDIANS FROM THE HARVEST OF**
 10 **TRIBALLY OWNED NATURAL RESOURCES.**

11 “(a) IN GENERAL.—

12 “(1) INCOME AND SELF-EMPLOYMENT
 13 TAXES.—No tax shall be imposed by subtitle A on
 14 income derived from a natural resources-related ac-
 15 tivity conducted—

16 “(A) by a member of an Indian tribe di-
 17 rectly or through a qualified Indian entity; or

18 “(B) by a qualified Indian entity.

19 “(2) EMPLOYMENT TAXES.—No tax shall be
 20 imposed by subtitle C on remuneration paid for serv-
 21 ices performed in natural resources-related activity
 22 by one member of a tribe for another member of
 23 such tribe or for a qualified Indian entity.

24 “(b) DEFINITIONS.—For purposes of this section:

25 “(1) NATURAL RESOURCES-RELATED ACTIV-
 26 ITY.—The term ‘natural resources-related activity’

means, with respect to an Indian tribe, any activity directly related to cultivating, harvesting, processing, extracting, or transporting natural resources held in trust by the United States for the benefit of such tribe or directly related to selling such natural resources but only if substantially all of the selling activity is performed by members of such tribe.

“(2) QUALIFIED INDIAN ENTITY.—

“(A) IN GENERAL.—The term ‘qualified Indian entity’ means an entity—

“(i) engaged in a natural resources-related activity of one or more Indian tribes;

“(ii) all of whose equity interests are owned by such tribes or members of such tribes; and

“(iii) substantially all of the management functions of the entity are performed by members of such tribes.

“(B) ENTITIES ENGAGED IN PROCESSING OR TRANSPORTATION.—Except as provided in regulations similar to regulations in effect under section 7873(b)(3)(A)(iii) on the date of the enactment of this section, if an entity is engaged to any extent in any processing or transporting of natural resources, the term ‘qualified

Indian entity' shall also include an entity whose annual gross receipts are 90 percent or more derived from natural resources-related activities of one or more Indian tribes each of which owns at least 10 percent of the equity interests in the entity. For purposes of this subparagraph, equity interests owned by a member of such a tribe shall be treated as owned by the tribe.

“(c) SPECIAL RULES.—

“(1) DISTRIBUTIONS FROM QUALIFIED INDIAN ENTITY.—For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of one or more Indian tribes to a member of one of such tribes shall be treated as derived by such member from a natural resources-related activity to the extent such distribution is attributable to income derived by such entity from a natural resources-related activity.

“(2) DE MINIMIS UNRELATED AMOUNTS MAY BE EXCLUDED.—If, but for this paragraph, all but a de minimis amount derived by a qualified Indian tribal entity or by a tribal member through such entity, or paid to an individual for services, would be entitled to the benefits of subsection (a), then the entire amount shall be so entitled.

1 “(d) NO INFERENCE CREATED.—Nothing in this
 2 title shall create any inference as to the existence or non-
 3 existence or scope of any exemption from tax for income
 4 derived from tribal rights secured as of January 1, 1995,
 5 by any treaty, law, or Executive Order.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
 7 tions for subchapter C of chapter 80 of such Code is
 8 amended by adding at the end the following new item:

“Sec. 7874. Federal tax treatment of income derived by Indians from the har-
 vest of tribally owned natural resources.”

9 (c) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to periods before, on, or after the
 11 date of the enactment of this Act.

○